IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY SECOND DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 11508 of 2003

Between:

K. Subhash chandra Bose s/o late K. Brahmaiah
R/o Mohan Nagar, Kothapet, Hyderabad

..... PETITIONER

AND

The Secratary of State Legislature Governemnt of Andhra Pradesh,
A.P. Legislative Assmebly, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus to set a side the order of the Secretary to State Legislature, Government of Andhra Pradesh Hyderabad, in G.O. Ms. No. 69 Legislature (O.P.1) Secretariat, dated 29-12-2001 and direct the respondent to reinstate the petitioner into service with back wages and all other consequential benefits i.e. increments, arrears of salary and promotion.

Counsel for the Petitioner:MR.G.VIDYASAGAR

Counsel for the Respondent: GP FOR SERVICES-II

The Court made the following :

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ORDER:

Heard both sides and at the request of both the counsel, the main writ petition itself is taken up for disposal.

The petitioner herein, who is the employee of the respondent, files this writ petition *inter alia* seeking to assail the impugned order in G.O.Ms.No.69, Legislature (O.P.1) Secretariat, dated
29-12-2001.

The main grievance of the petitioner is that having regard to the fact that a criminal case lodged against him in Crime No.28 of 1985 of Chilakalurpet P.S., which was ultimately taken up as C.C.No.53 of 1990 on the file of VII Additional Munsif Magistrate, Guntur and an order of conviction passed thereon, the impugned order was passed, dismissing the petitioner. However, subsequently on an appeal filed by the petitioner, the said conviction was confirmed in Criminal Appeal No.595 of 2000 on the file of IV Additional Sessions Judge, Guntur. Thereafter, on revision filed by the petitioner in Criminal R.C.No.1415 of 2001, this Court by its order dated 21.03.2003, allowed the same and set aside the conviction. In view of the same, the very basis for dismissal of the petitioner no longer exists. Hence, the impugned orders are liable to be set aside.

Having heard the learned counsel on either side and also on perusal of the material, there is no dispute of the fact that dismissal of the petitioner was purely based on conviction imposed by the VII Addl. Munsif Magistrate, Guntur, which was confirmed in appeal by the Sessions Court, Guntur. However, the same was set-aside in the Revision filed by the petitioner. Though it is submitted that as against the orders of this Court in Revision, the respondent has taken the matter to the Supreme Court and the same is pending. The fact remains that as and when the petitioner stands

acquitted, the very foundation for dismissal does not exist. It is always open to the respondent to take such appropriate action as and when appeal filed by it concludes, and there cannot be any impediment in this regard.

In view of the above, the impugned order in G.O.Ms.No.69, Legislature (O.P.1) Secretariat, dated 29-12-2001 is set aside. It is needless to mention that the petitioner would be entitled for benefits, emoluments etc., as per law once the petitioner stands acquitted.

The writ petition is accordingly allowed. No costs.

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B.PRAKASH RAO, J

22nd December, 2004.

Chvn.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Wednesday, the Twenty second day of December, Two thousand and four.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER.

To

1. The Secratary of State Legislature Governemnt of Andhra

Pradesh,A.P. Legislative Assmebly, Hyderabad.

2. Two C.Cs. to the G.P. for Services-II, High Court Buildings, Hyderabad

(OUT).

3. Two C.D. copies.